REMARKS

The foregoing amendment amends the specification and the drawings to address the informalities noted by the Examiner. Pending in the application are claims 1-51, of which claims 1, 10, 15, 22, 30, 39 and 45 are independent. The following comments address all stated grounds for rejection and place the presently pending claims, as identified above, in condition for allowance.

Amendment and/or cancellation of the claims is not to be construed as an acquiescence to any of the objections/rejections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants reserve the right to pursue the claims as originally filed, or similar claims, in this or one or more subsequent patent applications.

Objections to the Drawings

Regarding the objection to Figures, Applicants have amended Figure 1, Figure 2, Figure 5A, Figure 5B and Figure 6 to include descriptive legends for the boxes, as requested by the Examiner, and request that the objection to the drawings be reconsidered and withdrawn.

Objections to the Specification

Regarding the objection to the disclosure for certain informalities, Applicants have amended the specification on page 6, line 25 to change "transmitter 36" to ---transmitter 37---, and on page 6, line 27 to change "receiver 37" to ---receiver 36---, as requested by the Examiner.

35 U.S.C. 103 Rejections

In the Office Action, the Examiner rejects claims 1-3, 10-11, 15-17, 22-24, 30-32, 39-40 and 45-47 under 35 U.S.C. 103(a) as being unpatentable over Applicants' admitted prior art in view of Canoglu (U.S. Patent Number 6, 407,838). The Examiner rejects claims 4-5, 25 and 33-34 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art and Canoglu, as applied to claims 1-3, 10-11, 15-17, 22-24, 30-32, 39-40 and 45-47, and further in view of Hutchison (U.S. Patent Number 6,687,463). The Examiner rejects claims 6-9, 12-14, 18-21, 26-29, 35-38, 41-44 and 48-51 under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art and Canoglu, as applied to claims 1-3, 10-11, 15-17, 22-24, 30-32, 39-40 and 45-47, and further in view of Wu (U.S. Patent Number 6,687,463). Applicants respectfully traverse the rejections and submit that claims 1-51 distinguish patentably over the cited prior art.

Even in combination, the admitted Prior Art and the cited references fail to teach or suggest an optical drop unit containing a fixed drop filter that is capable of accessing wavelengths from ***different bands***, as recited in independent claims 1, 10, 15, 22, 30, 39 and 45. According to the Examiner, the admitted prior art in Figure 3 discloses a node with a plurality of modules for dropping and adding a set of wavelengths from different bands. However, the admitted prior art does not teach or suggest that the wavelengths accessed by the node in Figure 3 can be from different bands. The admitted prior art merely discloses that a number of wavelengths can be accessed by cascading a plurality of single wavelength add/drop filter cassettes (SWACs) in separate cards or chassis, without disclosing that the wavelengths are from different bands.

The Canoglu reference also fails to teach or suggest an optical node capable of accessing (i.e., adding and/or dropping) wavelengths from different bands using a single optical unit, such as a card.

Furthermore, even in combination, the references fail to teach or suggest an optical node capable of adding and/or dropping a *fixed* set of wavelengths from different bands, as recited in independent claims 1, etc. In fact, the Canoglu expressly teaches *away* from a node for adding and/or dropping a *fixed* set of wavelengths from different bands, because the Canoglu reference specifically requires that the node be capable of changing the set of wavelengths that are added and/or dropped at the node. The module described in the Canoglu reference includes an electromechanical apparatus for changing the set of wavelengths that are accessed at the node. The electromechanical apparatus selectively moves a reflecting section of one or more filters in and out of a beam path to select and control the wavelengths that are reflected into a collimator and the wavelengths that pass through the node as express channels.

Furthermore, Applicants respectfully submit that there would be no motivation to one of ordinary skill in the art to modify the node of Figure 3 to include the subject matter of the Canoglu reference, even though even in combination, the references fail to teach or suggest using a single card to access a plurality of wavelengths from different bands. The references also lack motivation for combining the teachings of the admitted prior art and the Canoglu reference with the teachings of the Hutchison reference to reach a determining that it would be obvious to include wavelengths that are not used in a fixed set of wavelengths from different bands that are accessed at a node in order to reserve the wavelengths that do not carry information for future growth of the network, as recited in claims 4-5 and 33-34. The Canoglu

reference and the Wu reference also lack motivation for modifying the Canoglu reference using the teachings of the Wu reference.

In determining whether a case of *prima facie* obviousness ("obvious on its face") exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. The prior art must provide the motivation to make a change to its own teachings to arrive at the invention under rejection. That is, it is not sufficient that the prior ***could be*** so modified; instead the prior art must teach or suggest that the prior art ***should be*** so modified.

The cascaded filter node shown in Figure 3 of the present application would require significant redesign and reengineering in order to place the plurality of filters on a single module, which teaches *away* from modifying the cascaded filter node using the subject matter described in the Canoglu reference. Therefore, the Examiner's combination of references to reject the claims is improper.

Under U.S. law, even if a combination of the references teaches every element of the claimed invention, without a motivation to combine, a rejection based on a prima facie case of obvious is improper. The Examiner has not provided an objective reason to combine the teachings of the references to support his statement that it would have been obvious to combine the admitted prior art with the Canoglu reference. As is evident from a close reading of the references and a comparison to the pending claims, the instant rejection of claims 1-51 constitutes nothing more than a picking and choosing of the various elements of the claims from a number of references based, not on motivation from the references themselves, but rather based on the teachings of the application. Thus, the instant rejection constitutes an impermissible hindsight reconstruction of the invention.

Even so, the claims are patentable over the references, because neither reference describes an optical node capable of accessing a plurality of wavelengths from different bands using a single card, as recited in claims 1-51.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. SYCS-008 from which the undersigned is authorized to draw.

If there are any remaining issues, we invite a call to the Applicants' representative at the telephone number listed below.

Dated: May 10, 2004

Respectfully submitted,

By _____

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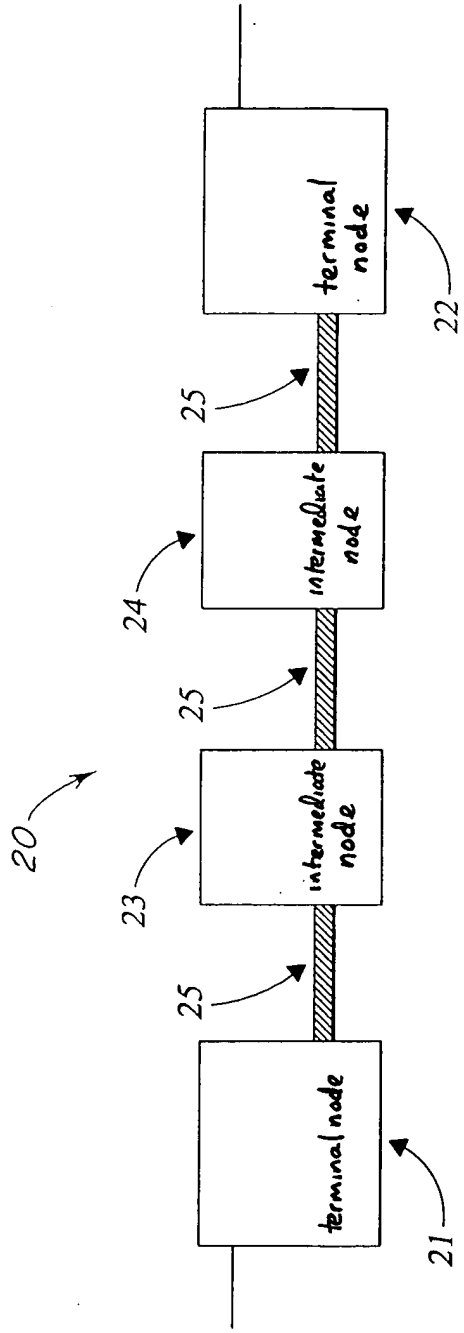

FIG. 1

CHANNEL PLAN

Band	ITU #	Frequency	Wavelength	Band #
RED	*i20*	192.0	1561.42	C
	i21	192.1	1560.61	
	i22	192.2	1559.79	
	i23	192.3	1558.98	
	i24	192.4	1558.17	
	i25	192.5	1557.36	
	i26	192.6	1556.56	A
	i27	192.7	1555.75	
	i28	192.8	1554.94	
	i29	192.9	1554.13	
	i30	193.0	1553.33	B
	i31	193.1	1552.52	
	i32	193.2	1551.72	
	i33	193.3	1550.92	
	i34	193.4	1550.12	G
	i35	193.5	1549.32	
	i36	193.6	1548.51	
	i37	193.7	1547.72	
	i38	193.8	1546.92	H
	i39	193.9	1546.12	
	i40	194.0	1545.32	
	i41	194.1	1544.53	
	i42	194.2	1543.73	
	i43	194.3	1542.94	
BLUE	*i44*	194.4	1542.14	D
	i45	194.5	1541.35	
	i46	194.6	1540.56	
	i47	194.7	1539.77	
	i48	194.8	1538.98	
	i49	194.9	1538.19	
	i50	195.0	1537.40	E
	i51	195.1	1536.61	
	i52	195.2	1535.82	
	i53	195.3	1535.04	
	i54	195.4	1534.25	F
	i55	195.5	1533.47	
	i56	195.6	1532.68	
	i57	195.7	1531.90	
	i58	195.8	1531.12	
	i59	195.9	1530.33	

FIG. 2

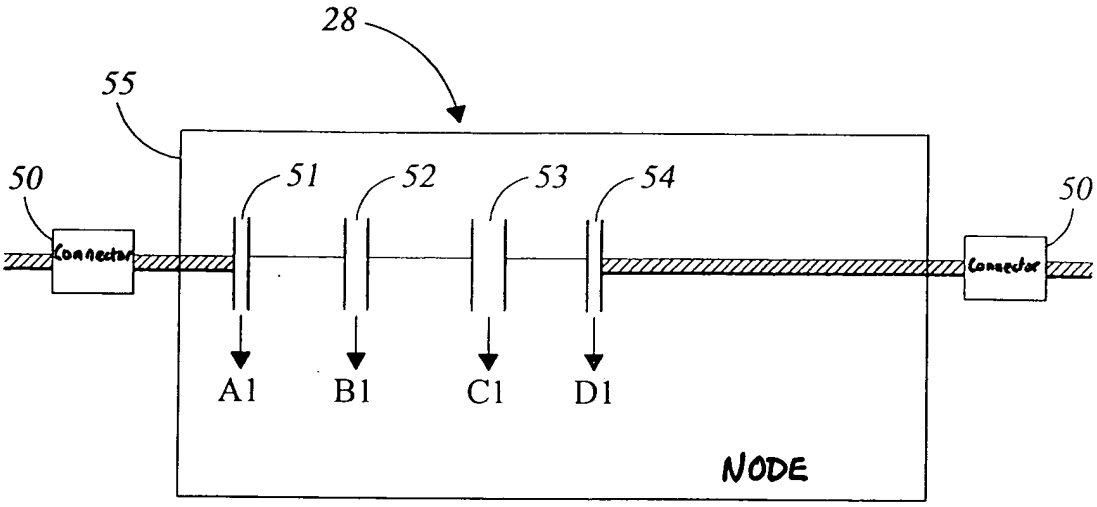

FIG. 5A

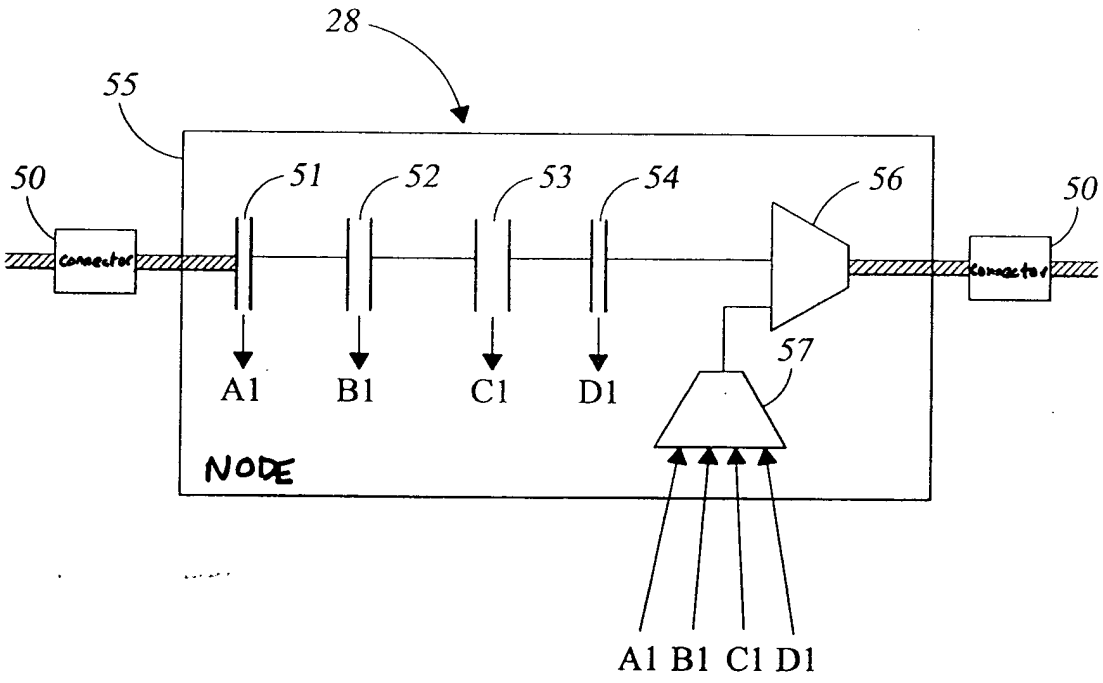

FIG. 5B

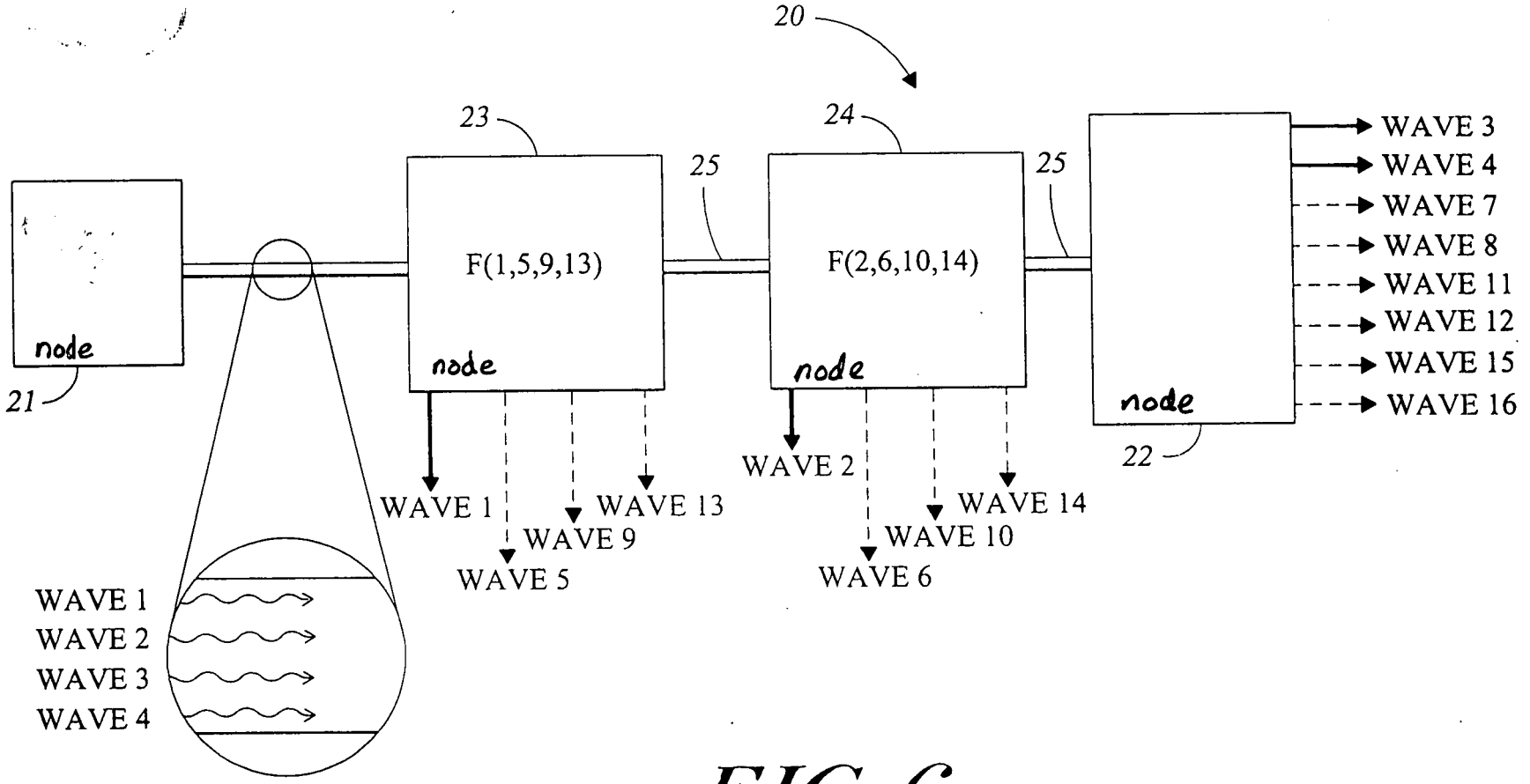

FIG. 6